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resources to better security processes, a significant improvement and substantial risk reduction to the overall PSI process is achieved.

The combination of Phased PR and ACES screening could be an alternative to the current PSI process, a process that will dramatically increase the system effectiveness with no additional costs. Although ACES is currently still in testing, its screening will substantially reduce risk while increasing the quality of the personnel security system during a time when national security is the focus of the Department of Defense. The marriage of the two initiatives is the first substantial improvement to the PSI process since the consolidation of background checks into the Single Scope Background Investigation (SSBI), nearly 11 years ago. These initiatives could provide a real long-term solution to the personnel security crisis and address the backlog issue by way of changing how those investigations are conducted. The savings offered by Phasing PR and the performance anticipated from ACES are impressive by themselves individually, but when coupled together these improvements to the overall PSI system almost guarantee success. §

Analysis Of The Antideficiency Act (ADA) In The Department Of The Navy (DON) By LCDR Eric D. Cheney

INTRODUCTION



Every year the Department of the Navy (DON) expends enormous resources developing a budget and competing with other federal agencies for scarce taxpayer dollars to execute its mission. It is important that in our pursuit of scarce dollars, the people who provide us the money trust that we will be good stewards of the money. Negative public and Congressional perceptions jeopardize Navy funding. As responsible stewards of taxpayer dollars, we must strive to obtain the optimum use of our available resources, within the limits of the law.

Integral to this process is defining how much money is needed to execute our assigned mission, and telling Congress what we are going to spend the money on and at what rate we plan on spending the money. Learning from mistakes as early as the 19th century, Congress implemented a series of laws designed to prevent government officials from spending the taxpayers' money in a manner that was not intended. Collectively, these laws are referred to as the *Antideficiency Act (ADA)*. Execution of the budget contrary to the *ADA* is a violation of federal law.

The *ADA* is actually a series of laws whose objective is to bind the executive branch of government to the expenditure limits of appropriated funds. Although complex in operation, the basic principle of the law, as the U.S. General Accounting Office (GAO) reports, is simple: "Government officials are warned not to make payments – or to commit the United States to make payments at

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some future time – for goods or services unless there is enough ‘money’ in the bank to cover the cost in full. The ‘bank’ of course is the available appropriation.” (*GAO Principles of Federal Appropriations Law*, 1992)

In addition to preventing overspending at the total appropriation level, the *ADA* prevents overspending official administrative subdivisions of appropriations known as apportionments. The laws have been in existence for over a century, yet leaders and decision makers with uncompromising integrity, advanced education, and proven professional aptitude continue to commit *ADA* violations on a surprisingly large scale.

The *ADA* consists of three sections of *Title 31* of the *United States Code*: *Sections 1341*, *1342* and *1517*. These three laws define how a person can commit an *ADA* violation.

1. *Section 1341* of *Title 31* defines limitations on expending and obligating amounts. Specifically, it states, “An officer or employee of the United States Government or of the District of Columbia may not:
 - (a) make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation;
 - (b) involve either government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law;
 - (c) make or authorize an expenditure or obligation of funds required to be sequestered under *Section 252* of the *Balanced Budget and Emergency Deficit Control Act of 1985*; or
 - (d) involve either government in a contract or obligation for the payment of money required to be sequestered under *Section 252* of the *Balanced Budget and Emergency Deficit Control Act of 1985*.” (<http://www4.law.cornell.edu/uscode/31/1341.html>)
2. *Section 1342* forbids the acceptance of voluntary services. Specifically, it states that “An officer or employee of the United States Government or the District of Columbia may not accept voluntary services for either government or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property. This section does not apply to a corporation getting amounts to make loans (except paid in capital amounts) without legal liability of the United States Government.” (<http://www4.law.cornell.edu/uscode/31/1342.html>)
3. *Section 1517*, the most violated of the three *ADA* codes forbids the over obligation and expenditure of an apportionment or an amount permitted by a regulation prescribed for the administrative control of apportionments. (http://www.dtic.mil/comptroller/fmr/14/14_02.pdf)

As with other laws in our society, there are consequences for violating the *ADA* laws. Violations of the *ADA* should not be taken lightly. “In accordance with *Sections 1349* and *1518* of *Title 31* of the U.S. Code, an officer or employee violating *Sections 1341(a)*, *1342*, or *1517(a)* of *Title 31* shall be subject to appropriate administrative discipline, including—when circumstances warrant—a written reprimand, suspension from duty without pay, or removal from office. In addition, in accordance with *Sections 1350* and *1519* of *Title 31* of the U.S. Code, an officer or employee convicted of willfully and

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knowingly violating *Sections 1341(a), 1342, or 1517(a) of Title 31* shall be fined not more than \$5,000, imprisoned for not more than two years, or both.” (*DoDFMR, Vol. 14, pg. E-1, 2001*)

Moreover, if an officer or employee is found guilty of violating the *ADA*, whether it was done knowingly or not, a written report with the responsible person’s name, the nature of the violation, and assigned punishment is sent to The President of the United States via the Director of the Office of Management and Budget (OMB), the President of the Senate, and the Speaker of the House of Representatives.

EDUCATION AND TRAINING

Education and training, followed up with constant awareness, are two of the keys to preventing violations from occurring. The analysis of formal investigations of *ADA* violations for an eleven-year period will illuminate more specifically where in the system people need to receive more training, and what learning objectives need more emphasis.

The Naval Financial Management Career Center (NFMC) was established to manage ASN (FM&C) sponsored programs and training courses for Navy and Marine Corps personnel; to coordinate developmental projects to improve financial management education and training; and to improve communication and disseminate current information within the financial community.

INVESTIGATION PROCESS

A violation may be discovered through procedures established within a command or through either an internal or external audit. Once a potential violation is discovered, it has to be investigated. The investigation process can be broken down into three distinct phases: (1) the preliminary review, (2) the formal investigation, and (3) the report to the President and the Congress. The investigative process and associated timeline requirements are explained in the following paragraphs.

1. Preliminary Review

The purpose of the preliminary review is to gather basic facts and determine whether a violation has or has not occurred. When the office of the Under Secretary of Defense (USD(C)) is notified of a potential violation by an audit report or otherwise learns of a potential violation, the Navy or Marine Corps has 90 days to conduct a preliminary investigation. The findings are written up as a report.

Once the preliminary review report has been completed and the findings indicate a potential violation, a formal investigation shall be initiated within 15 business days of the report approval. If the results of the preliminary review indicate that no violation has occurred, the preliminary review report completes the actions regarding the potential violation and no further action is required after the report is approved.

2. Formal Investigation

The purpose of an investigation of a potential violation of the *ADA* is to determine what happened, what were the causes, who was responsible, what actions should be taken to correct the current situation, and what actions should be taken to ensure that a similar violation does not occur in the future.

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Investigations of potential violations, including the submission of the final summary reports to the office of the USD(C) shall be completed within 9 months.

If the results of a formal investigation determine that there was no violation, the investigation report must be reviewed by the USD(C) and the Office of the Deputy General Counsel (Fiscal) (ODGC[F]) for review. If they both concur with the “no violation” finding, then no further action is required. If they do not agree with the “no violation” finding, the investigation will be reopened and it will proceed until the investigating officer can provide additional documentation to support a “no violation” finding, or determine that a violation did occur.

3. Report to the President and the Congress

The office of the USD(C) reviews the summary report of violations for completeness, clarity, compliance with the reporting requirements, and adequacy of corrective and administrative disciplinary action taken. If the USD(C) office is not satisfied with the report, it will return the report to the ASN (FM&C) for correction and resubmission within a specified time period.

Once the office of the USD(C) is satisfied with the report, it will prepare notification letters to the President of the United States, the President of the Senate, and the Speaker of the House of Representatives. These letters notify the President and the Congress of the violation, the nature of the violation, the names of the persons responsible for the violation, and the disciplinary action taken.

According to *Chapter 5, Volume 14* of the *DoD Financial Management Regulation (FMR)*, “The total process for investigation and reporting potential violations of the *ADA* shall not take more than 1 year from the date of discovery through the preparation of transmittal letters to the President, the Director of the Office of Management and Budget, and the leaders of both Houses of Congress.” (*DoDFMR, Vol. 14, pg. 5-1, 2001*)

DATA PRESENTATION AND ANALYSIS

The data gathered during this study and presented below covers all of DON’s formal investigations from fiscal year 1987 through fiscal year 1997. Each case file was reviewed, and all pertinent data was extracted and a synopsis of each case file was prepared. The data from each synopsis was entered into a database and exported into a spreadsheet format for final analysis.

It is important to note that the year in which an *ADA* violation occurs is often not the year in which it is investigated. Investigations lagged the year of violation on average by 24.6 months and in some cases by as much as 69 months. Some of the analysis that follows is based on the year in which the violation occurred, but for continuity purposes most of it is based on the year in which the violation was investigated.

Four separate data categories were analyzed: (1) number of new investigations per year, (2) types of violations, (3) violations by claimant, and (4) the investigations process. The results of the data analysis can be used as either a baseline in which all future studies are measured, an assessment of the DON’s effectiveness in reducing *ADA* violations,

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as an aid in the refinement of the training curriculum, or it can help decision makers formulate new policy. Each of the four data categories is discussed in the following sections.

CATEGORY 1: NUMBER OF NEW INVESTIGATIONS PER YEAR

The number of new investigations per year is a good metric for assessing the effectiveness of the DON's effort to reduce *ADA* violations. A direct trend analysis of violations per year could not be accomplished with the available data because of the time lag between the time a violation occurs and the time it was discovered. As previously mentioned, the time lag averages just over 24 months with a standard deviation of 19.3 months. Therefore, from a statistical perspective, approximately 67 percent of the violations that occurred for the last 44 months of data are included in the data set. Knowing this, it was determined that the number of investigations per year would be the best metric for this data set to determine the trend in frequency of violations in the DON.

Figure 1 illustrates the number of new investigations per year. This data indicates that the system is not stable, meaning the excessive variation makes it impossible to predict from one year to the next how many investigations will occur. For example, in 1988 there were seven times as many investigations as in 1987, and zero investigations in the following year. Similar data exists for 1994.

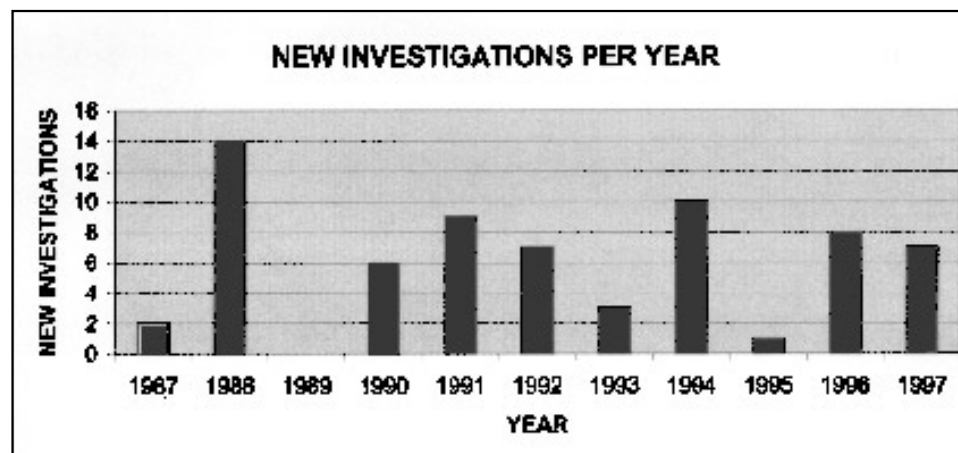


Figure 1.—New investigations per year.

In an effort to smooth out the variation, it was found that taking a three-year moving average significantly reduces the error from the predicted values and actual values in a regression model. By analyzing Figure 2 it becomes apparent that by taking a three-year moving average of the data, which effectively smoothes out the data, the DON will investigate about 18 *ADA* violations every three years, or an average of six violations per year.

The linear trend line in figure 2 indicates that the three-year moving average decreases slightly over the 11-year period, but the decrease is negligible. It also shows that the number of investigations over a three-year period is stable, which is an excellent reference for planning purposes or as a baseline to use for future analysis.

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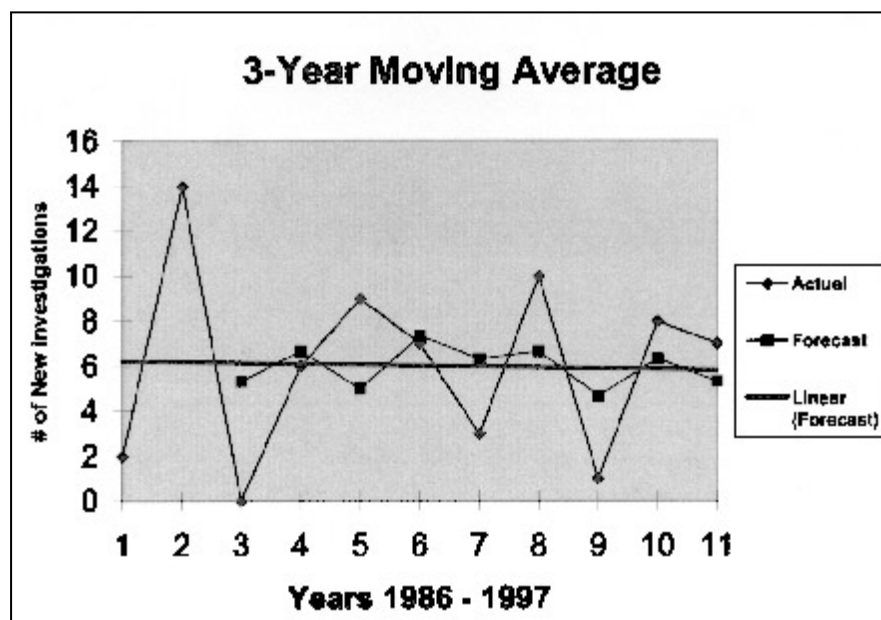


Figure 2.—Three-year moving average for new investigations.

CATEGORY 2: TYPES OF VIOLATIONS

The following analysis examines the types of violations in three layers.

1. The first layer is a macro view that identifies violations segregated by the legal statutes that define what constitutes an *ADA* violation, *Section 1341*, *1342*, and *1517*. Each level of analysis more narrowly focuses on where the DON needs to focus its training and education efforts for *ADA* prevention and establishing and implementing internal controls.
2. The second layer analyzes the investigations by the three elements of availability of appropriations: purpose, time, and amount.
3. The third layer of analysis breaks down the investigations resulting from “purpose” violations into specific appropriation accounts to determine if any account is more violated than the others.

This analysis illuminates where the errors are occurring, and where improvements in training, awareness, and internal controls are needed.

Violations by Statute

Figure 3 illustrates that 87 percent of the violations were violations of *Section 1517*, and 13 percent were violations of *Section 1341*. There were no violations of *Section 1342*. Although this seems disproportionate, it is to be expected because most of the financial transactions occur at the *1517* level in the flow of funds system. *Section 1341* prohibits expenditures or obligations in excess of an appropriation or fund, and *Section 1517* prohibits spending in excess of an apportionment of an appropriation. Although it is not unusual to have more *1517* violations, it should not be dismissed. It is important to further analyze the causes of these violations in hopes of reducing their occurrence.

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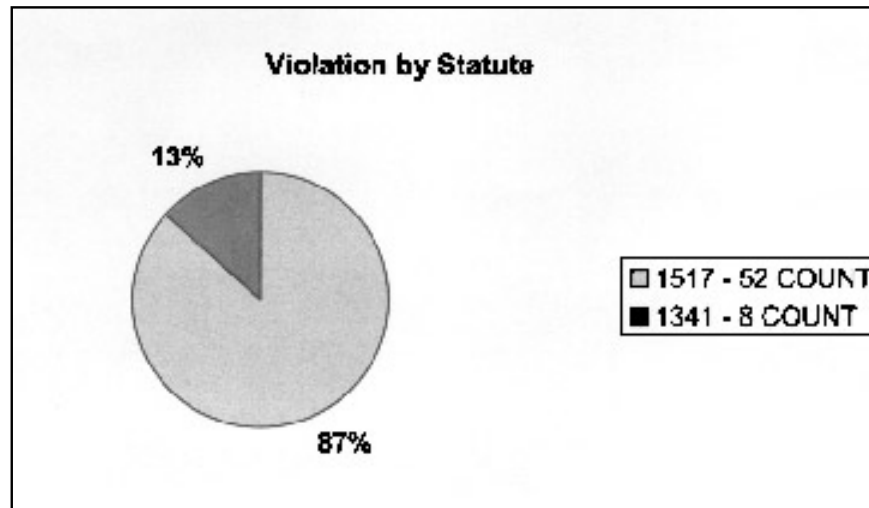


Figure 3.—Violation by statute.

Violation by Availability of Appropriations

The concept of “availability” of appropriations is derived from whether appropriated funds are or are not “legally available” for a given obligation or expenditure. Whether appropriated funds are legally available for obligation or expenditure depends on three things:

- a. The purpose of the obligation or expenditure must be authorized;
- b. The obligation must occur within the time limits applicable to the appropriation; and
- c. The obligation and expenditure must be within the amounts Congress has established. (*GAO/OGC-91-5, Vol. 1, Ch. 4, pg. 2*)

All three elements to the concept of availability: (1) purpose, (2) time, and (3) amount must be observed for the obligation or expenditure to be legal.

In this step of the analysis, illustrated in Figure 4, it was discovered that investigations occurred because of a potential violation in regards to the following elements: (1) amount (31 percent); (2) time (16 percent); and (3) purpose (53 percent).

The majority of the investigations with an “amount” violation evolved because of poor accounting practices. Failure to post obligations or expenditures in a timely manner led to a false understanding or assumption that commands had more money available to spend than they actually had. Subsequently, these commands often over-obligated their accounts and were charged with an *ADA* violation.

The 16 percent of investigations resulting from a “time” violation occurred because commands unknowingly created liabilities in advance of appropriations by letting complex contracts, or because of communication errors between a command and its claimant.

The majority of investigations, and the one that deserves further analysis, resulted from violations of the “purpose” statute. The “purpose” statute is often referred to as a *1301* violation or the “color of money” statute. It states that appropriated funds

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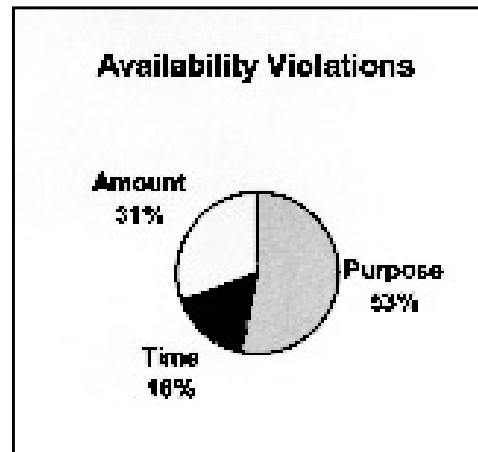


Figure 4.—Availability violations.

must only be used for programs and purposes for which the appropriation was made. Although a violation of *Section 1301* is not an *ADA* violation, it can, and often does lead to a violation. When a *1301* violation has been discovered, accounting adjustments must be recorded so that the correct account is charged. If the adjustments results in an over-obligation or over-expenditure of the appropriation or fund charged, then a violation of *Section 1341* or *1517* has occurred which is an *ADA* violation.

The *Section 1301* violations occur because commands often exceed the investment/expense thresholds associated with certain types of appropriation accounts. The data show that more training and awareness needs to be performed on the nuances of what is an expense, what is an investment, and what are the appropriate thresholds associated with certain accounts that delineate the difference between the two.

Generally, “expenses” are the use of funds to operate and maintain an organization such as payroll, utilities, supplies, and travel. These amounts are budgeted in the O&M,N and MPN accounts, which are annual appropriations. “Investments” are the use of funds for acquisitions or additions to end items. For example, if a command purchases a computer terminal that will be connected to an already existing LAN system, that computer terminal must be purchased using investment type funds even though its unit cost is below the investment/expense threshold. This type purchase is an addition to an end item or existing system whose collective value exceeds the investment/expense threshold. Investments benefit future periods and are budgeted in a procurement account such as OPN, or the MILCON account, which are multiple year appropriations.

The current “expense” and “investment” threshold for O&M funds is \$100,000. For items with a system or unit cost less than \$100,000, the O&M,N appropriation is used. For items with a system or unit cost of \$100,000 or greater, the applicable procurement account is used. However, it is important to note that the investment/expense threshold was raised from \$3,000 to \$100,000 during the time period covered in this study.

There are actual cases in this study where commands tried to circumvent certain thresholds by purchasing “parts of buildings” whose value was less than the existing threshold at that time. Upon investigation, it was revealed that the sum of the parts for

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the entire building or complex, once completed, was valued at more than the existing threshold. These commanders and their staffs were charged with violating the *ADA*.

Other *Section 1301* violations that occurred frequently in this study involved purchasing computer and other electronic equipment. Again, the commands purchased several items individually at a cost less than the existing threshold, but when the pieces were joined together as a system, their total costs exceeded the threshold.

Appropriation Avoided

In an effort to illuminate the causes of *Section 1301* violations, an analysis of the particular appropriation accounts used in those transactions was conducted. Figures 5 and 6 illustrated expense/investment threshold errors. DON personnel are confusing the O&M,N account and the OPN account. Figure 5 illustrates the types of accounts that should have been used in financial transactions, but were not, resulting in a “color of money” violation.

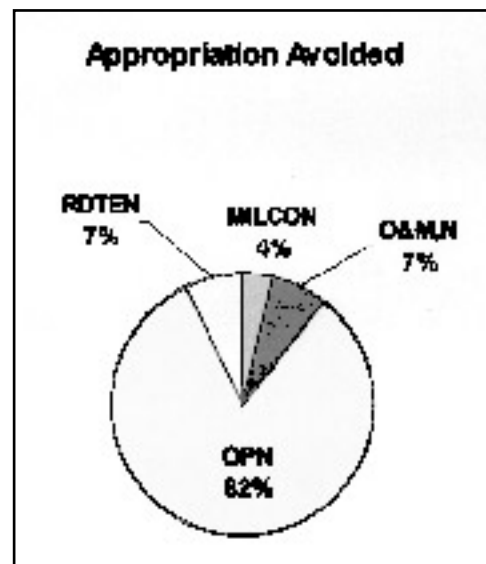


Figure 5.—Appropriation avoided.

Figure 6 illustrates the type of accounts that were incorrectly used in lieu of the appropriate account. Combined, Figures 5 and 6 illustrate: (1) OPN was the appropriation that should have been used in 82 percent of the *1301* violations but was not; and (2) O&M,N was improperly used in 65 percent of the *1301* violations. It is obvious that a significant number of people in the DON make financial transactions using O&M,N funds when they should use OPN funds. Decision makers and trainers can now focus courses to include more coverage of this deficiency, and the internal controls for identifying this type of error.

The analysis of violations by availability infractions allows the decision makers to raise command awareness and focus internal control efforts on reducing *Section 1301* violations, which will reduce *Section 1517* violations. More specifically, managers should assess their ability to properly distinguish between expense and investment appropriations and expenditures with particular attention paid to the use of O&M,N and OPN

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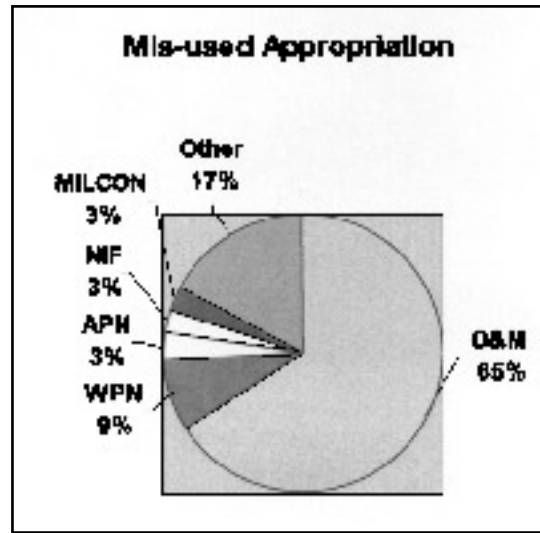


Figure 6.—Mis-used appropriation.

accounts. Trainers can also adjust course material and instruction emphasis to better educate students on the above findings. Commands must also continue to find ways to improve accounting systems so that ledgers are updated in a timely manner.

CATEGORY 3: VIOLATIONS BY CLAIMANT

In the previous section an analysis was done that explained what caused the majority of investigated violations. This section analyzes the 62 investigations segregated by claimant to explain where the violations are occurring. This will allow decision makers to focus any special training or develop mission unique controls to specific claimants if needed.

Figure 7 segregates the number of violations by claimant. The figure illustrates all claimants who had two or more violations in this study. Claimants who only had one violation were combined to form the “other” category.

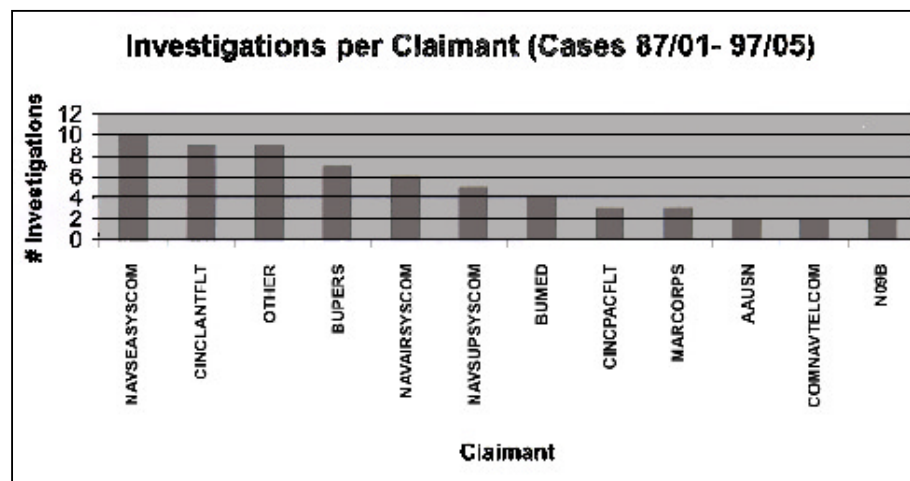


Figure 7.—Investigations per claimant.

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Segregating the investigations by claimant shows that three of the Systems Commands (SYSCOMS): (1) Naval Sea Systems Command (NAVSEASYS COM), (2) Naval Air Systems Command (NAVAIRSYS COM), and (3) Naval Supply Systems Command (NAVSUPSYS COM) account for 21 of the 62 cases. Upon first inspection it may seem unusual that approximately one third of all DON investigations in this 11-year period were caused by only three of the major claimants, but after researching the system commands it was found that collectively these commands exceed one-third of the Navy budget, deal with multiple appropriation accounts, and many of their financial transactions are multi-year obligations.

Handling multi-year accounts requires more complex accounting systems, and more complex internal controls. Eight of twenty-one SYSCOM investigations resulted from mistakes made in mishandling funds during multi-year obligation availability periods.

Besides the SYSCOMS, the only other unusual statistic illustrated in Figure 7 is the nine CINCLANTFLT violations compared to the three CINCPACFLT violations. These are very similar commands in terms of size, budget, and mission. Of the nine CINCLANTFLT investigations, seven of them were *Section 1301* violations. The other two investigations were *Section 1517* violations. CINCPACFLT had two *1301* violations and one *1517* violation. CINCLANTFLT had two pairs of repeating offenses (cases 88/5 and 88/6, and cases 91/8 and 91/9) in consecutive years by the same person. Had the violation been discovered in a more timely manner, the two repeated violations (case 88/6 and 91/9) may have been avoided.

CATEGORY 4: INVESTIGATION PROCESS

Paramount to the effective management of any system is discovering the flaws of the system in a timely manner, and quickly correcting those flaws so that they are less likely to be repeated. The perception in Congress in the early 1990's was that the DoD did not take *ADA* violations seriously. It often took several years for alleged violations to be investigated and brought to closure. In many cases investigations were completed after the individuals named responsible had retired. In an effort to expedite disclosure and investigation of potential violations, and to demonstrate to Congress the importance of the issue, the Office of the Secretary of Defense (OSD) developed and issued a new directive 7200.1, "*Administrative Controls of Appropriations*," in May 1995. Immediately following the issuance of the new directive, DoD issued *FMR Volume 14*, "*Administrative Control of Funds and ADA Violations*," in August 1995. These two directives changed the way the Navy processes *ADA* violations into a timely and professional procedure.

The following sections examine the investigation process from discovery of a violation to the USD(C) submitting the obligatory letters to the President of the United States and to the Congressional leaders. Whether the violation was discovered internally or externally, and the time it takes to discover a violation, are two excellent metrics the DON can utilize to measure if the internal controls system is effective. A command with effective internal controls in place will have fewer violations, and it will be able to quickly discover violations while there is still time to correct the error and prevent recurrence.

Who Discovered the Violation

The 62 cases that were investigated in this study were discovered by a variety of means ranging from hot-line tips, external investigations, and internal audits. Figure 8 illustrates that 51 percent of the investigated violations were discovered via some sort of internal measures or checks during the course of routine work. Whenever a

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violation is discovered internally, it speaks well for the internal controls established by the Commander and his/her staff. The DON can use this information to establish goals for improving the process of discovering violations by the originating command, and it can be considered the baseline that future studies use to measure progress.

From the DON's perspective, it really does not matter who finds the violations or

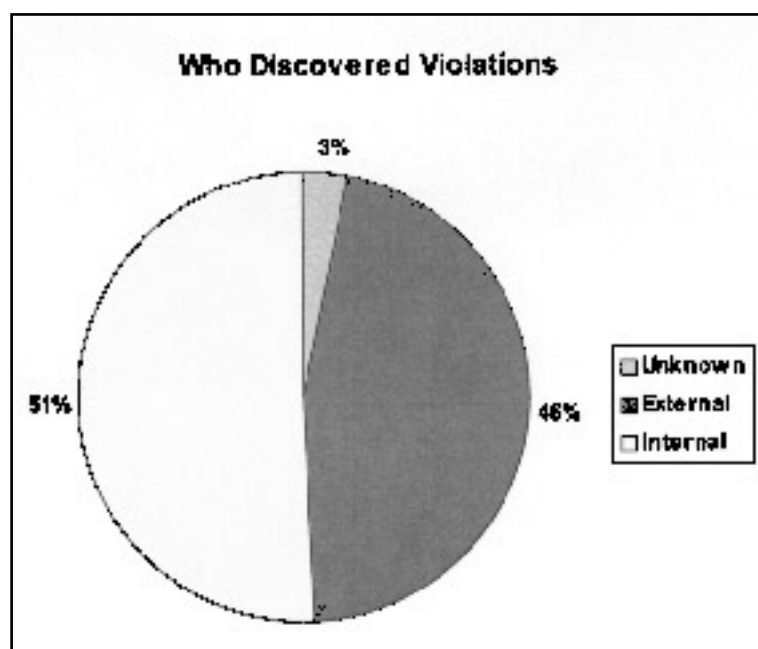


Figure 8.—Who discovered violations.

how they are found. What is important is to correct the situation, develop a list of lessons learned, and take action to prevent recurrence.

Time to Discover the Violation

When analyzing CINCLANTFLT's violations, it was determined that two of the nine violations could have been prevented if the original violation was discovered in a timely manner. A quick analysis of BUPER's seven investigations revealed that four violations (cases 92/3, 92/4, 92/5, and 94/3) involved purchasing computer equipment for a Local Area Network (LAN) system using O&M,N funds instead of OPN funds. All four violations occurred in consecutive years from 1988 through 1991, yet the earliest date of discovery for all four violations was December 1991. Had the initial violation been discovered earlier, and awareness of, and training to the violation been heightened at the claimant level, the probability of the same violation occurring at that level over the next three years would have decreased significantly. Just by analyzing the investigations of the above two claimants, it can be argued that timely discovery of potential violations would have been reduced the DON's number of violations by nearly 10 percent.

Figure 9 illustrates the number of months it took to discover a violation for the 62 cases used in this study. Because the data were so unstable and unpredictable, a moving average was used to predict the months it would take to discover a violation. It was discovered through trial and error that a 5 case moving average was the smallest moving

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average value that could be used and still provide an accurate model. Fortunately, the analysis of time it took to discover the 62 potential violations illustrated in figure 9 shows a steady decrease from approximately 36 months in 1987 cases to just under 20 months in 1997 cases.

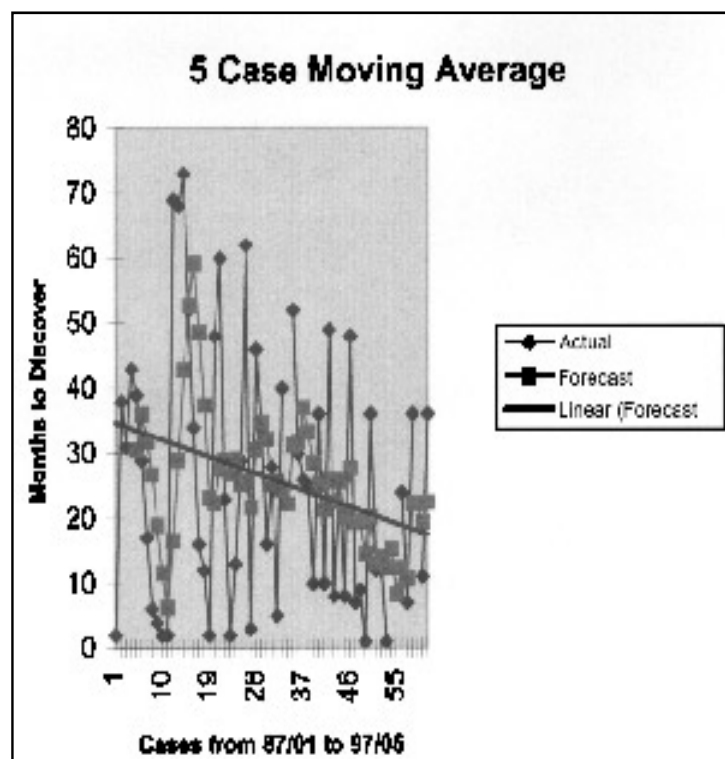


Figure 9.—Time to discover violation.

Time to Complete an Investigation

Equally important to the “time to discover” a violation is the “time to complete an investigation.” Quick resolution of a potential *ADA* violation is necessary so Commanders can determine whether the violation was caused by systemic problems or because internal control measures were overlooked. Once this is known, the Commander can implement proper internal controls or provide proper training to prevent recurrence.

Because of unstable and unpredictable data, the analysis illustrated in figure 10 uses the five case moving average model to keep the analysis consistent. The data shows an improvement over time from 40 months for 1987 cases to approximately 18 months for 1997 cases.

SUMMARY

In today’s climate of increasing defense budgets and a return to deficit spending at the federal level, certain members of Congress, the media, and citizen action groups will scrutinize how efficiently and effectively the DON executes its budget. Hence, the DON must continually demonstrate that it is a good steward of the taxpayer’s money.

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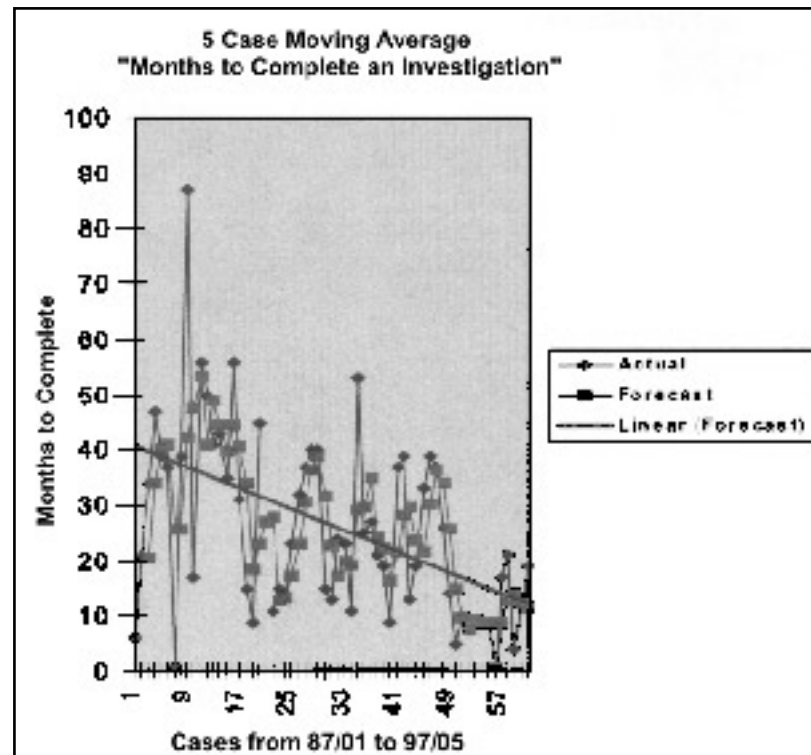


Figure 10.—Months to complete an investigation.

The NPMC and Centralized Financial Management Trainee Program (CFMTP) continue to provide ever-improving courses that aggressively address causes and methods of prevention of *ADA* violations. The office of the ASN (FM&C) is currently orchestrating a review of comptroller organizations for 23 major Navy commands, the Marine Corps, and over 200 subordinate activities. The purposes of this review are to ensure:

- that comptrollers report directly to the activity commander;
- that clearly defined comptroller functions are assigned to the comptroller without overlap into other organizational entities; and
- that the comptroller organization within a command is able to exercise its responsibility and authority.

These changes will ensure that comptrollers are properly positioned to fulfill assigned fiduciary responsibilities. The following conclusions and recommendations are meant to assist the professionals who combat these violations everyday.

The DON made significant improvements in managing several processes associated with the *ADA* from 1987 to 1997. The most impressive improvements were:

- the significant decline in the time it took to discover a violation (from approximately 36 months in 1987 cases to just under 20 months in 1997 cases) and
- the time it took to complete an investigation (from 40 months for 1987 cases to approximately 18 months for 1997 cases).

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To reduce and eventually eliminate *ADA* violations, the DON must focus its energy and resources on timely and effective training and proper development, implementation, and execution of internal control procedures.

TYPE OF VIOLATIONS

If the DON wants to reduce the number of *ADA* violations, it should first discover where the violations are occurring, and which type is more prevalent. The study results concluded that 87 percent of the violations were *1517* violations. It is recommended that the DON seek ways to improve the administrative apportionment of funds process as these funds are distributed to lower echelon commands.

It is equally imperative that commanders who receive funds with attached *Section 1517* responsibility fully understand the availability of funds statutes and the ramifications of violating the statutes. Because *1517* is the most violated *ADA* section, training should be expanded to reduce the number of violations.

***Section 1301* Violations**

Fifty-three percent of *ADA* violations involve infractions of the “purpose” statute, also known as the “color of money” statute. The violations were further broken down into the inappropriately used accounts and accounts that were not used when it was appropriate. The results revealed that the OPN and O&M accounts were incorrectly used with the greatest frequency.

The O&M account, an annual expense account, was used most often when it should not have been. Whenever a purpose statute was violated in this study, the O&M account was the account used in 65 percent of the cases when another account should have been used.

In contrast, financial managers avoided using the OPN account, a multi-year procurement account, in 82 percent of the purpose statute violations. The DON would achieve great returns on investing more time and resources in providing more thorough training on the distinction between what is an “investment” and what is an “expense,” and in the proper use of the OPN and O&M accounts.

Raise Threshold Limits

An alternate solution to reducing violations associated with the investment/expense threshold is to raise the threshold limits. The *Fiscal Year 2002 Authorization Act* increased the O&M threshold for minor construction from \$500,000 to \$750,000. This is an incremental increase that would have had little effect on reducing the number of violations in this study. A more influential step would be an increase in the \$100,000 threshold for purchasing general equipment. A Secretary of Air Force memorandum, dated 4 January 2001 recommends legislation to increase this threshold limit to \$500,000. Of the 62 violations examined in this study, 18 of them would not have existed if the threshold limit of \$500,000 was in place. An increase of this magnitude would give activities greater flexibility in reacting to changing operational requirements and in reducing the number of DON *ADA* violations.

VIOLATIONS BY CLAIMANT

The highest concentration of *ADA* violations occurred in the SYSCOMS. Because of the size of the budget and the complexity of the procurement business, SYSCOMS are more vulnerable to *ADA* violations. Hence they need to spend more time and resources

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on training their personnel in appropriation law. Research for this study indicated that the SYSCOMS already commit an enormous amount of resources and effort towards reducing *ADA* violations.

The Web sites provided by NAVSEASYSCOM and NAVSUPSYSCOM are excellent resources for *ADA* information. Thorough training, continuous refinement of internal control procedures, and a constant heightened level of awareness at the SYSCOMS could reduce the number of DON *ADA* violations by up to 33 percent according to the analysis in this study.

Recurring Violations

During the case-by-case analysis of the violations, it was discovered that CINCLANTFLT had two pairs of repeat violations in consecutive years by the same people, and BUPERS had four consecutive violations that were very similar in type and nature in four consecutive years. If the violations had been discovered in a timely manner, and procedures were in place to alert the subordinate commands of the type and nature of the violations, there is a good chance that five of the repeat violations would have been prevented.

E-mail Solution

Once a violation is discovered, the ASN (FM&C) Budget Policy and Procedures Division (FMB-5) could release an e-mail to all comptrollers that gives a brief synopsis of the type and cause of the violation. The comptrollers could then pass the information on to persons who are at risk of committing similar violations. Publishing a brief synopsis of current investigations in the *DC Connection* and the *Navy Comptroller* publications could raise awareness of *ADA* violations in the financial community. This constant communication of information on the *ADA* will keep the topic in the forefront of the minds of the professionals in the financial world.

Web site Solution

For training purposes, it may be beneficial for the ASN (FM&C) to develop a Web site that has a synopsis of the most current violations from the past ten-years. Individual command trainers could use this data for research and training. Implementation of the e-mail system and Web site are low cost solutions that should result in a reduction of potential violations. The time and resources to perform these tasks would be miniscule compared to the time and resources required to complete just one investigation.

Alternative Perspective

The analysis and resulting conclusions and recommendations in this study were completed and formulated based on the assumption that the DON wants to reduce the number of *ADA* violations per year. However, when observed from a statistical perspective, the DON is averaging only six investigations per year, yet it conducts millions of financial transactions per year. Considering the number of DON financial transactions that occur, are six investigations per year excessive? Considering the constant three year moving average of six investigations per year, the system may be at the point of diminishing returns meaning that to obtain further reduction would require a substantial increase in investment of resources. Is the cost of further reduction worth the benefit of better fiscal management? This analysis would also be dependent upon the size of violations in question, as well as, the frequency of violations. One major violation that receives substantial press coverage and Congressional interest can be more damaging to the DON than several smaller violations that receive minimal press coverage. Obviously this is a subjective approach to the issue that needs to be addressed by senior DON leaders.

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Flying Hour Cost Estimating At Commander Naval Air Forces Pacific (COMNAVAIRPAC) By LCDR Paul J. Bourgeois

OVERVIEW



This research examined the Tactical Air (TACAIR) portion of the Commander Naval Air Forces Pacific (COMNAVAIRPAC) historical flight hour data to determine the correlation between dollars budgeted for the FHP and the hours actually flown. An analysis of the actual FHP execution of the budget for Fiscal Years (FYs) 1999, 2000, and 2001 was undertaken for four Continental United States (CONUS) based Carrier Air Wings (CVWs).

The COMNAVAIRPAC Comptroller and Flight Hour Program Manager have used FHs as a predictor of Fuel, Aviation Depot Level Repairables (AVDLRs), and Other Maintenance costs. They have sought a more effective cost prediction model for the air wings they fund. The intention has been to find a cost estimation method that could be applied to the Inter-Deployment Training Cycle (IDTC) and Fuel, AVDLRs and Other Maintenance costs to better analyze and report projected versus actual flight hour performance.
